

The Honorable Ronald B. Leighton

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

STORMANS, INCORPORATED doing business  
as RALPH'S THRIFTWAY; RHONDA  
MESLER, MARGO THELEN

**Plaintiffs,**

VS.

MARY SELECKY, SECRETARY OF THE  
WASHINGTON STATE DEPARTMENT OF  
HEALTH, et al.,

### Defendants.

Civil Action No. C07-5374 RBL

DECLARATION OF STEVEN T.  
O'BAN IN SUPPORT OF  
PLAINTIFFS' MOTION TO COMPEL  
PRODUCTION OF CERTAIN NON-  
PRIVILEGED INTERNAL  
COMMUNICATIONS AND SURVEY  
DOCUMENTS OF THIRD PARTIES

**NOTE ON MOTION CALENDAR:  
FEBRUARY 13, 2009**

I, STEVEN T. O'BAN, declare and state:

1. I am over eighteen years of age and make this declaration on personal knowledge.

2. I am one of the attorneys representing Stormans, Inc., Rhonda Mesler and Margo Thelen

3. On December 17, 2008 the Court further clarified its Order (Dkt #258) in a teleconference call with counsel for the parties and non-parties. Plaintiffs' counsel understood from the Court's comments that Plaintiffs are permitted to inquire about actual

**DECLARATION OF STEVEN T. O'BAN  
(C07-5374) - 1**

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1 communications with state agencies and their employees, including mental impressions and  
2 internal communications within the organization and external communications with other  
3 organizations about actual communications with the State.

4 4. Attached are true and correct copies of the following:

5 Exhibit A – Email from Shana Melanson dated May 3, 2005.

6 Exhibit B – Excerpts of the deposition of Christina Hulet.

7 Exhibit C – Email from Steven Saxe dated June 22, 2005.

8 Exhibit D – Letter from Sara L. Ainsworth dated August 4, 2005.

9 Exhibit E – Meeting Minutes of Board of Pharmacy dated August 10, 2005.

10 Exhibit F – Washington Board of Pharmacy Newsletter dated October 2005.

11 Exhibit G – Email from Sharron Sellers dated October 6, 2005.

12 Exhibit H – Meeting Brief dated January 4, 2006.

13 Exhibit I – Letter from Elaine Taylor Rose dated January 12, 2006.

14 Exhibit J – Letter from Christine O. Gregoire dated January 18, 2006.

15 Exhibit K – Email from Christina Hulet dated January 24, 2006.

16 Exhibit L – Board of Pharmacy Meeting Agenda dated March 10, 2006.

17 Exhibit M – Letter from Amy Luftig, Roberta Riley and Nancy L. Sapiro dated  
18 March 7, 2006.

19 Exhibit N – Map of Pharmacist Refusals Around Washington State.

20 Exhibit O – Email from Christina Hulet dated May 9, 2006.

21 Exhibit P – Letter from Christine O. Gregoire dated May 30, 2006.

22 Exhibit Q – Email from Christina Hulet dated May 30, 2006.

23 Exhibit R – Board of Pharmacy Meeting Minutes dated June 1, 2006.

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Exhibit S – Governor's Monday Alert dated June 5, 2006.

Exhibit T – Email from Christina Hulet dated May 12, 2008.

Exhibit U – Email from Christina Hulet dated June 5, 2006.

Exhibit V – Email from Amy Luftig dated June 7, 2006.

Exhibit W – Email from Ellen Landino dated June 19, 2006.

Exhibit X – Briefing Document from Christina Hulet dated June 21, 2006.

Exhibit Y – Planned Parenthood News Release dated July 21, 2006.

Exhibit Z – Email from Christina Hulet dated July 26, 2006.

Exhibit AA – Excerpts of the deposition of Donald F. Downing.

Exhibit BB – Letter from Christine O. Gregoire dated August 28, 2006.

Exhibit CC – Email from Steven Saxe dated August 25, 2006.

Exhibit DD – Board of Pharmacy Meeting Agenda dated April 12, 2007.

Exhibit EE – Emails from Northwest Women’s Law Center and Planned Parenthood regarding interviews of candidates for BOP.

Exhibit FF – Email from Pam Crone dated January 6, 2007.

Exhibit GG – Email from Karen S. Cooper dated August 29, 2006.

Exhibit HH – NWWLC emails containing redactions regarding communications with State officials.

**Exhibit II – Attachment to Subpoena to NARAL Pro Choice Washington.**

Exhibit JJ – Email from Becky Roe dated December 17, 2008.

Exhibit KK – Letter from Rebecca J. Roe dated January 6, 2009.

**Exhibit LL – Excerpts of the deposition of Nancy L. Sapiro.**

Exhibit MM – Letter from Sara Ainsworth dated December 15, 2008.

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(C07-5374) - 3**

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Exhibit NN – Letters from Sara Ainsworth dated November 12 and November 21, 2008.

Exhibit OO – Letter from Scott A. Smith dated January 13, 2009.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signed this 29<sup>th</sup> day of January, 2009 in Seattle, WA.

/s/ Steven T. O'Ban

Steven T. O'Ban

**DECLARATION OF STEVEN T. O'BAN  
(C07-5374) - 4**

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